

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 1:05-CR-58

Plaintiff,

v.

Hon. Richard Alan Enslen

LYNN N. EALY,

ORDER

Defendant.

/

Defendant Lynn N. Ealy has moved *pro se* for reconsideration of the Court's Order of November 13, 2006, which denied his request for grand jury transcripts. While Defendant has requested hearing, hearing is unnecessary in light of the relief requested.

Reconsideration is permitted under Western District of Michigan Local Criminal Rule 47.3(a) only if the movant "demonstrate[s] a palpable defect by which the Court and the parties have been misle[d] . . . [and] that a different disposition must result from the correction thereof." Similarly, Sixth Circuit case law provides that reconsideration is only appropriate if one of three conditions is met: (1) to correct a clear error of law; (2) to account for newly discovered evidence or an intervening change in the controlling law; or (3) to otherwise prevent manifest injustice. *GenCorp, Inc. v. American Int'l Underwriters*, 178 F.3d 804, 834 (6th Cir. 1999) (citing cases).

Defendant does not meet any of these standards. He does not have any basis for obtaining the grand jury transcripts for the purposes of appeal because he did not timely challenge the grand jury (*see* 28 U.S.C. § 1867(a); Fed. R. Crim. P. 6(b)(1); *see also* Fed. R. Crim. P. 6(e)(5)-(6) (discussing sealed nature of grand jury proceedings).). His argument that the grand jury lacked

“jurisdiction” is without any basis in fact. There is no reason to suppose that the grand jury was not lawfully drawn, summoned or selected. Furthermore, there was ample evidence on the trial record of a substantive basis for criminal jurisdiction over Defendant—*i.e.*, Defendant committed acts of tax evasion within the Western District of Michigan.

THEREFORE, IT IS HEREBY ORDERED that Defendant Lynn N. Ealy’s Motion for Reconsideration (Dkt. No. 81) is **DENIED**.

DATED in Kalamazoo, MI:
December 11, 2006

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE